

EXHIBIT 13

1 HONORABLE JAMES L. ROBART
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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MICROSOFT CORPORATION,

11 Plaintiff,

12 v.

13 MOTOROLA, INC., et al.,

14 Defendants.

15 MOTOROLA MOBILITY, INC., et al.,

16 Plaintiffs,

17 v.

18 MICROSOFT CORPORATION,

19 Defendant.

20 No. C10-1823-JLR

21 PLAINTIFF MICROSOFT'S THIRD
22 SET OF INTERROGATORIES AND
23 EIGHTH REQUESTS FOR
24 PRODUCTION TO DEFENDANTS
25 MOTOROLA, MOTOROLA
MOBILITY, AND GENERAL
INSTRUMENT

26 TO: Defendants Motorola, Inc. (n/k/a Motorola Solutions, Inc.), Motorola Mobility,
27 Inc., and General Instrument Corporation;

28 AND TO: Philip S. McCune and Lynn M. Engel, Summit Law Group PLLC, their
29 attorneys of record

30 Pursuant to Federal Rules of Civil Procedure Rules 26, 33, and Rule 34, Plaintiff
31 Microsoft Corporation ("Plaintiff" or "Microsoft"), propounds the following discovery
32 requests to Defendants Motorola, Inc. (n/k/a Motorola Solutions, Inc.), Motorola Mobility,
33 Inc., and General Instrument Corporation to be answered separately and fully, under oath,

34 PLAINTIFF MICROSOFT'S THIRD SET OF
35 INTERROGATORIES AND EIGHTH REQUESTS
36 FOR PRODUCTION TO DEFENDANTS - I

37 LAW OFFICES
38 DANIELSON HARRIGAN LEYH & TOLLEFSON LLP
39 999 THIRD AVENUE, SUITE 4400
40 SEATTLE, WASHINGTON 98104
41 TEL. (206) 623-1700 FAX. (206) 623-8717

1 within thirty (30) days of the date of service of these requests. Spaces have been provided for
2 your responses. If any space is inadequate for your response, such response may be continued
3 on separate sheets of paper and attached hereto.

4 If you object to answering any discovery request, in whole or in part, state your
5 objection and state with particularity all of the factual and legal reasons supporting your
6 objection.

7 If any document otherwise responsive to these requests has been lost, destroyed or has
8 otherwise disappeared, in addition to providing the descriptive information sought regarding
9 the document, please state all facts and circumstances known to you relating to its
10 disappearance or destruction, identify all persons who have seen the document or who have
11 knowledge of the circumstances surrounding its disappearance, and provide a detailed
12 description of the nature and contents of the document and of your effort to locate it.

13 If you refuse to answer any request, describe the basis for your refusal to produce,
14 including any claim of privilege, in sufficient detail so as to permit the Court to adjudicate the
15 validity of your refusal including, with respect to documents, identifying in writing each such
16 document by indicating the name of each author or initiator, the name of each recipient or
17 addressee, the date of the document, the general subject matter of the document, and, with
18 respect to each such document, state the basis upon which the claim of privilege is asserted.

19 In issuing this discovery, Microsoft reserves all right to take additional discovery as
20 provided for in the Federal Rules of Civil Procedure and applicable Local Rules.

21 ANY OBJECTION WHICH IS NOT ASSERTED BY YOU IS WAIVED.

22 **DEFINITIONS AND PROCEDURES**

23 Microsoft incorporates by reference in each of the requests below the definitions and
24 instructions set forth in its first and second sets of interrogatories, and in its first through
25 seventh sets of requests for production.

PLAINTIFF MICROSOFT'S THIRD SET OF
INTERROGATORIES AND EIGHTH REQUESTS
FOR PRODUCTION TO DEFENDANTS - 2

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INTERROGATORIES

INTERROGATORY NO. 13: Identify all products sold by You since 2005 that are, have been, or were at any time compliant with either the 802.11 or the H.264 standard and provide the annual amount of sales (in both dollars and units) of each product.

ANSWER:

INTERROGATORY NO. 14: On an annual basis, identify the estimated or projected amount of future sales (in both dollars and units) for all products currently sold or announced by You that are compliant with either the 802.11 or the H.264 standard.

ANSWER:

INTERROGATORY NO. 15: Identify and describe in detail all products You currently plan to sell during any of the years 2012-2017 that are or will be compliant with either the 802.11 or the H.264 standard, and identify what portion of the standard each relates to.

ANSWER:

INTERROGATORY NO. 16: For each patent owned by You that You contend is essential to implement the H.264 or 802.11 standard, identify what portion of the standard to which each such patent relates.

ANSWER:

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1 **INTERROGATORY NO. 17:** Describe in detail all facts upon which You rely for
2 Your contention in Your First Affirmative Defense that "Microsoft has suffered neither harm
3 nor irreparable harm from Defendants' actions."

4 **ANSWER:**

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7 **INTERROGATORY NO. 18:** Describe in detail all facts upon which You rely for
8 Your contention in Your Second Affirmative Defense that "Microsoft's First and Second
9 Causes of Action fail to state a claim upon which relief can be granted."

10 **ANSWER:**

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13 **INTERROGATORY NO. 19:** Describe in detail all facts upon which You rely for
14 Your contention in Your Third Affirmative Defense that Microsoft's First and Second Causes
15 of Action "were not ripe for adjudication when filed."

16 **ANSWER:**

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19 **INTERROGATORY NO. 20:** Describe in detail all facts upon which You rely for
20 Your contention in Your Fifth Affirmative Defense that "Microsoft's First and Second Causes
21 of Action are barred by the doctrine of waiver."

22 **ANSWER:**

1 **INTERROGATORY NO. 21:** Describe in detail all facts upon which You rely for
2 Your contention in Your Sixth Affirmative Defense that "Microsoft's First and Second Causes
3 of Action are barred by the doctrine of judicial estoppel."

4 **ANSWER:**

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7 **INTERROGATORY NO. 22:** Describe in detail all facts upon which You rely for
8 Your contention in Your Seventh Affirmative Defense that "Microsoft's First and Second
9 Causes of Action are barred by the doctrine of unclean hands."

10 **ANSWER:**

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13 **INTERROGATORY NO. 23:** Describe in detail all facts upon which You rely for
14 Your contention in Your Eighth Affirmative Defense that "Microsoft's First and Second
15 Causes of Action are barred by its failure to mitigate."

16 **ANSWER:**

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19 **INTERROGATORY NO. 24:** Describe in detail all facts upon which You rely for
20 Your contention in Your Ninth Affirmative Defense that "Microsoft's First and Second Causes
21 of Action are barred because Microsoft failed to satisfy a condition precedent."

22 **ANSWER:**

1 **INTERROGATORY NO. 25:** Describe in detail all facts You learned about
2 “Microsoft’s product functionality as it relates to Motorola’s H.264 patent portfolio” and
3 Microsoft’s “particular use of Motorola’s H.264 patents, as well as the value of a grant-back to
4 Motorola under Microsoft’s own H.264 patents” after sending Your October 29, 2010 letter
5 that caused You to reduce Your license request from 2.25% of the price of the end-product to
6 \$0.50 per copy of Windows software, as reflected in Kirk Dailey’s June 18, 2012 letter to
7 Horacio Gutierrez.

8 **ANSWER:**

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11 **REQUESTS FOR PRODUCTION**

12 **REQUEST FOR PRODUCTION NO. 320:** Produce all documents You relied on or
13 referred to in answering the foregoing interrogatories.

14 **RESPONSE:**

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17 **REQUEST FOR PRODUCTION NO. 321:** Produce all Documents reflecting,
18 referring or relating to any valuation of General Instrument’s H.264 standard essential patents
19 that was performed in connection with Motorola’s acquisition of General Instrument.

20 **RESPONSE:**

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23 **REQUEST FOR PRODUCTION NO. 322:** Produce all Documents reflecting,
24 referring or relating to any valuation of any Terayon H.264 standard essential patents that was
25 conducted in connection with Motorola’s acquisition of Terayon.

PLAINTIFF MICROSOFT’S THIRD SET OF
INTERROGATORIES AND EIGHTH REQUESTS
FOR PRODUCTION TO DEFENDANTS - 6

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1 **RESPONSE:**

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4 **REQUEST FOR PRODUCTION NO. 323:** Produce all Documents reflecting,

5 referring or relating to any valuation of any Tut H.264 standard essential patents that was

6 conducted in connection with Motorola's acquisition of Tut.

7 **RESPONSE:**

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10 **REQUEST FOR PRODUCTION NO. 324:** Produce all Documents reflecting,

11 referring or relating to any valuation of Your patents, including but not limited to patents You

12 contend are essential to the H.264 or 802.11 standard, that was conducted in connection with

13 Google's acquisition of Motorola Mobility and General Instrument.

14 **RESPONSE:**

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17 **REQUEST FOR PRODUCTION NO. 325:** Produce all Documents concerning the

18 value, use, or significance of 802.11 and/or H.264 technology to Your customers, including but

19 not limited to surveys, customer feedback, internal or external studies, or marketing

20 information.

21 **RESPONSE:**

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24 **REQUEST FOR PRODUCTION NO. 326:** Produce all Documents relating to Your

25 sale of patents, including but not limited to H.264 standard essential patents, to General

PLAINTIFF MICROSOFT'S THIRD SET OF
INTERROGATORIES AND EIGHTH REQUESTS
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1 Electric, in or around 2003-2004.

2 **RESPONSE:**

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5 **REQUEST FOR PRODUCTION NO. 327:** Produce all Documents tending to
6 support or refute Your contention that You acted in good faith in sending the October 21, 2010
7 letter.

8

RESPONSE:

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11 **REQUEST FOR PRODUCTION NO. 328:** Produce all Documents tending to
12 support or refute Your contention that you acted in good faith in sending the October 29, 2010
13 letter.

14

RESPONSE:

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17 **REQUEST FOR PRODUCTION NO. 329:** Produce all Documents, including but
18 not limited to articles, studies, proposals, position statements, and presentations, relating to the
19 concepts of (i) royalty stacking, (ii) aggregate reasonable terms, and/or (iii) proportionality,
20 with respect to the licensing of standard essential patents. This request specifically includes,
21 but is not limited to, all documents relating to the Minimum Change Optimum Impact Proposal
22 You submitted to ETSI in or around September 2006.

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RESPONSE:

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PLAINTIFF MICROSOFT'S THIRD SET OF
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1 **REQUEST FOR PRODUCTION NO. 330:** To the extent not previously produced,
2 produce all custodial documents of Paul Bawel and Latonia Gordon relating to (i) the
3 definition and interpretation of RAND; (ii) licensing standard essential patents; (iii) patent
4 pools, including but not limited to those administered by MPEG LA and Via Licensing; (iv)
5 the IPR policies of the ITU, IEEE, or ETSI; and (v) Motorola's participation in the
6 development of the 802.11 and/or H.264 standard.

7 **RESPONSE:**

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10 **REQUEST FOR PRODUCTION NO. 331:** Produce all Documents concerning Kirk
11 Dailey's June 18, 2012 letter to Horacio Gutierrez, including but not limited to all Documents
12 relating to (1) Motorola's H.264 license offer to Microsoft with respect to Windows software;
13 (2) Motorola's 802.11 and H.264 license offer to Microsoft with respect to the Xbox 360; (3)
14 Motorola's ActiveSync license offer; (4) any valuation of Microsoft's H.264 standard essential
15 patents performed by or on behalf of Motorola; and (5) the value of a grant-back to Motorola
16 under Microsoft's H.264 patents.

17 **RESPONSE:**

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19
20 DATED this 18th day of June, 2012.

21 **DANIELSON HARRIGAN LEYH & TOLLEFSON LLP**

22 By


23 Arthur W. Harrigan, Jr., WSBA #1751
24 Christopher Wion, WSBA #33207
25 Shane P. Cramer, WSBA #35099

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PLAINTIFF MICROSOFT'S THIRD SET OF
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CERTIFICATE OF SERVICE

I, Susie Clifford, swear under penalty of perjury under the laws of the State of Washington to the following:

1. I am over the age of 21 and not a party to this action.
2. On the 18th day of June, 2012, I caused the preceding document to be served on counsel of record in the following manner:

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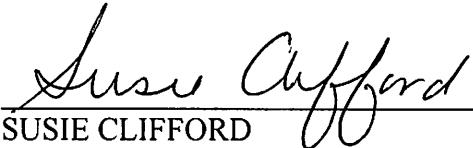
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11 Email

12 DATED this 18th day of June, 2012.

13 
14 SUSIE CLIFFORD

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PLAINTIFF MICROSOFT'S THIRD SET OF
INTERROGATORIES AND EIGHTH REQUESTS
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